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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,115	09/08/2003	Gabrielle Jeans	056197-0003	7063
7590 Miller Thomson LLP Suite 2500 20 Queen Street West Toronto, ON M5H 3S1 CANADA			EXAMINER CUMARASEGARAN, VERN	
			ART UNIT 3629	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/656,115

**Applicant(s)**

JEANS, GABRIELLE

**Examiner**

VERN CUMARASEGARAN

**Art Unit**

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pugliese (US 2002/0072974 A1) in view of Brown (US 2002/0156895).

**As to claims 1, 13, 24-26, 27** Pugliese shows

a) signing up one or more sales agent users for access to a server application executed on a web server, the web server being connected to the Internet

*{paragraph 193 where in order for the ShopLive system to have a sign-in process, shopper or merchant must have signed on the server application ("ShopLive"). Paragraph 130 inherently shows the web server being connected to the internet because in order to provide "merchant webpages" the server has to be connected to the internet};*

b) customizing, publishing and updating a web site promoting goods or services using the server application (paragraph 409), based on application of a plurality of web design selection tools to a plurality of web templates provided by the server application, whereby:

- i) the web site includes a public area and an administration area (Fig.20);
- ii) the server application enables the one or more sales agent users to

design web sites dynamically having function aspects built into the web sites that are linked to the sales generation process (paragraph 378);

iii) the plurality of web selection tools and plurality of web templates are updated regularly by an operator of the server application to incorporate one or more feature aspects and one or more function aspects linked to the sales generation process whereby the plurality of web selection tools and plurality of web templates are current with best practices of sales generation (paragraph 386); and

iv) the web sites of each sales agent user are presented to a user as: unrelated to other web sites built by other sales agent users using the server application; as related to one or more web sites of individual sales agent users, said one or more web sites being built using the server application; or as a network of web sites of individual sales agent users being built using the server application and said network of web sites including a master web site (paragraph 393 *where merchant directory is made available*);

d) creating customized sales tools being one or more sales generation related documents or one or more sales generation related communications by means of a sales tool facility provided by the server application, whereby the sales tools are customizable to promote sales based on a plurality of sales tool templates provided by the sales tool facility (paragraph 393); and

e) communicating the sales tools to one or more selected customers or potential customers via the server application (paragraph 403).

Brown shows

c) collecting contact data for customers and potential customers via the web site, collecting contact data from a remote computer of one or more sales agents, or collecting contact data through client input via a user interface (paragraph 33), whereby:

i) the contact data collected via the web site and the contact data collected from the one or more sales agents is stored to a common database linked to the server application (paragraph 7); and

ii) the server application enables the one or more sales agent users to control access to their contact data stored in the database whereby the contact data of one sales agent user being accessible by multiple sales agent users, such access being granted by the one sales agent user (paragraph 8); and

iii) the contact data stored in the database being updatable on an ongoing basis (*paragraph 7 "update...contact information"*).

It would have been obvious to one of ordinary skill in the art to incorporate the method of Brown since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**As to claim 2**, Pugliese et al show sending customized sales communications ("*gift registry*") via the administration area, by operation of the sales tool facility, whereby the customized communications are based on a plurality of customizable communication templates provided by the server application, and customized by the one or more sales agent users (paragraph 214).

**As to claim 3**, Pugliese et al show one or more sales agent users initiating the creation of a client service report by operation of the sales tool facility, whereby the client service report lists a plurality of sales activities undertaken by one or more of the sales agent users in relation to one or more customers or potential customers selected by the one or more sales agent users (paragraph 139).

**As to claim 4**, Pugliese et al show the web templates and communication templates being updated by the operator of the web server to incorporate best practices for appealing to the target audience of the sales agent users' sales activities (paragraph 324).

**As to claims 5 and 17**, Pugliese et al show the server application enabling the one or more sales agent users to design web sites dynamically by selecting in the administration area a plurality of design features corresponding to a particular web site design. However, Pugliese et al do not expressly show previewing the website design by means of a preview feature accessible via the administration area. It is notoriously old and well known in the art at the time of the invention to allow the preview of a website design before it is published on the website. Therefore, it would have been obvious to one of ordinary skill in the art to modify Pugliese et al and allow the preview of website design.

**As to claims 6 and 7**, Pugliese et al show the server application and the database enabling the one or more sales agent users to create a customer or potential customer list (paragraph 216).

**As to claim 8**, Pugliese et al show one or more sales agent users entering calendar information to a calendar facility provided by the server application, such that customized sales communications are delivered by the web server based on the calendar information (paragraph 215).

**As to claims 9 and 21**, Pugliese et al show sales tool facility and calendar facility cooperating to provide the client service report that lists the activities of one or more of the sales agent users by reference to the calendar data entered to the calendar facility (paragraph 386).

**As to claim 10**, Pugliese et al show one or more sales agent users offering incentives to customers and potential customers to provide their contact data to the customized web site by operation of the customized web site (paragraphs 41-42).

**As to claims 11 and 22**, Pugliese et al show users sending customized e-cards using the e-card (electronic messages) facility included in the sales tool facility, whereby the e-card facility enables the one or more sales agent users to select between a plurality of e-card templates designed to appeal to the target audience of the one or more sales agent users' sales activities (paragraph 103).

**As to claims 12 and 23**, Pugliese et al show of promoting the customized web site on the Internet by initiating the server application to establish search engine positioning of the customized web site (paragraph 155).

**As to claim 14**, Pugliese et al show sales tool facility and email facility cooperating to enable the plurality of sales agent users to send customized sales communications whereby customized communications are based on a plurality of

customizable communication templates provided by the sales tool facility (paragraph 219).

**As to claim 15**, Pugliese et al show sales tool facility enabling the plurality of sales agent users to create a client service report that lists a plurality of sales activities undertaken by one or more of the plurality of sales agent users in relation to one or more customers or potential customers selected by the one or more of the plurality of sales agent users (paragraph 139).

**As to claim 16**, Pugliese et al show that web templates and communication templates are updated by the operator of the server computer to incorporate best practices for appealing to the target audience of the plurality of sales agent users' sales activities (paragraph 324).

**As to claim 17**, Pugliese et al show web publication facility enabling the plurality of sales agent users to design web sites dynamically by selecting a plurality of design features corresponding to a particular web site design, and then previewing the web site design by means of a preview feature provided by the web publication facility.

**As to claim 18**, Pugliese et al show database management utility enabling the plurality of sales agent users to create a customer list (paragraph 216).

**As to claim 19**, Pugliese et al show plurality of sales agent users building the customer list by entering data into a form provided by the server application (paragraph 216).

**As to claim 20**, Pugliese et al show the server application further including a calendar facility that enables the plurality of sales agent users to add calendar data, and



the calendar facility, sales tool facility and email facility cooperate such that customized sales communications are delivered by the server computer based on the calendar information (paragraph 215).

### ***Response to Arguments***

Applicant's arguments filed July 14, 2009 have been fully considered but they are not persuasive.

Applicant's arguments regarding each part of claim 1 are addressed below:

#### **Claim 1(b)**

Contrary to applicant's assertion, Pugliese shows customizing, publishing and updating a web site promoting goods in paragraph 403 where the Live Browser streams customized content to each shopper via a custom live browser.

(i) Pugliese shows an administration area (Fig.20) and a public area (Fig.13) in the web site.

(ii) Pugliese shows the server application enabling the one or more sales agent users to design web sites dynamically having function aspects built into the web sites that are linked to the sales generation process in paragraph 17 where merchants are able to design web sites to sell products.

(iii) Daily personal notification feature to alert shoppers of sale items is considered to be daily update of a web template where the web template and web selection tool are considered to be the personal notification processing function and PNQ Queue function

respectively. Therefore, Pugliese discloses the feature of a plurality of web selection tools and plurality of web templates being updated regularly by an operator of the server application to incorporate one or more feature aspects linked to the sales generation process.

(iv) Pugliese clearly shows that the web sites created by each merchant is unique to that merchant in paragraph 130 where a web page for each merchant being hosted by ShopLive is shown.

Claim 1(d)

Contrary to applicant's assertion, Pugliese shows creating customized sales tools being one or more sales generation related documents or one or more sales generation related communications by means of a sales tool facility provided by the server application, whereby the sales tools are customizable to promote sales based on a plurality of sales tool templates provided by the sales tool facility in paragraph 405 where a merchant is able to provide customized advertising using templates in various formats such as video and text messaging.

Claim 1(e)

Paragraphs 403 and 405 show communicating the sales tool to one or more selected customers where advertisements (sales tool) shown to shoppers is considered to be communicating to shoppers.

Arguments regarding claim 1(c) are moot since a new prior art (Brown) is being applied to address the limitations.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **VERN CUMARASEGARAN** whose telephone number is (571)270-3273. The examiner can normally be reached on **Monday - Friday 8:30am-5:00pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vern Cumarasegaran/  
Examiner, Art Unit 3629

/JOHN G. WEISS/  
Supervisory Patent Examiner, Art Unit 3629